

AMENDMENT under 37 C.F.R. § 1.111  
U.S. Appln. No. 10/017,047

### **REMARKS**

Claims 1-27 are pending in the application. Claims 1-27 stand rejected. Reconsideration and allowance of all pending claims are respectfully requested in view of the following remarks.

### **PREVIOUS RESPONSE.**

Previously claims 1-27 were rejected under various prior art grounds primarily based on Hardwick. Applicant notes that subsequent to Applicant's response filed August 9, 2004, the previous rejections of record are not longer asserted in the Office Action dated November 11, 2005. Accordingly, Applicant presumes those rejections have been withdrawn.

### **CLAIM REJECTIONS.**

#### **35 U.S.C. § 102**

Claims 1-2, 6-7, 10, 15-16, 18 and 24-25 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. 6,570,571 to Morozumi. Applicant respectfully traverses this rejection for the following reasons.

"A claim is anticipated only if each and every element as set forth in the claims is found, either expressly or inherently described in a single prior art reference." *Verdegall Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987).

In the instant case, Morozumi discloses an image processing apparatus 1 including first through fourth geometry engines 21-24, each of which is a graphics processor for executing processing based on graphics commands received from command distributor 10. (Col. 2, ll. 39-54; Fig. 1). Each of the geometry engines 21-24 calculates a load of its own processing and if the result of calculation shows a processing load exceeding a threshold value, then a high-load

AMENDMENT under 37 C.F.R. § 1.111  
U.S. Appln. No. 10/017,047

signal HL1-HL4 is sent to the command distributor 10, which can prohibit further graphics commands from being transferred to a geometry engine until the high-load signal is released. (Col. 2, ll. 50-65).

Applicant assumes the Office Action alleges that each geometry engine 21-24 is interpreted to include a monitor analogous to those claimed in Applicant's claims. However, Applicant notes that from a simple glance at Morozumi Fig. 1, it can be seen that there is no second monitor communicatively coupled to a first monitor as recited in Applicant's claims 1-14.

For example, Applicant's claim 1 (and claims 2-14 by virtue of their dependency thereon) recites:

*1. An apparatus comprising:*  
*a first processor to execute a first set of instructions;*  
*a second processor to execute a second set of instructions;*  
*a first monitor adapted to determine available performance capability of the first processor while executing the first set of instructions; and*  
*a second monitor communicatively coupled to the first monitor and adapted to determine available performance capability of the second processor while executing the second set of instructions, wherein the apparatus is adapted to execute a third set of instructions on the first processor when the available performance capability of the second processor is less than an acceptable performance level to execute the third set of instructions.*

Referring to the example embodiment in Applicant's Fig. 1, it can be seen that Applicant's claimed invention does not require a separate command or processing distribution element (e.g., Morozumi element 10) as the monitors 11, 21 of respective first and second processors 10, 20 may be communicate with one another. Since Morozumi does not teach or suggest, and in fact teaches away from, first and second monitors which are communicatively

AMENDMENT under 37 C.F.R. § 1.111  
U.S. Appln. No. 10/017,047

coupled, Morozumi cannot anticipate claim 1 or claims 2-14 which directly or indirectly depend from claim 1.

With respect to independent claims 15 and 24, it is respectfully submitted that Morozumi does not teach or suggest "*polling a first processor to determine if the first processor has sufficient capacity to execute a first set of instructions.....*" As noted above, each geometry engine 21-24 of Morozumi simply drives a high load signal (e.g. HL1-HL4) when it determines its processing load exceeds a threshold. Command distributor 10 cannot be interpreted to poll engines 21-24 as these engines automatically provide the HL signal without need for polling. Accordingly, Applicant respectfully submits there is no polling of processor loads disclosed by Morozumi and thus Applicant's claims 15-27 are not anticipated by Morozumi.

For at least the foregoing reasons, Applicant submits claims 1-27 are not anticipated by Morozumi. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the §102 rejections based on Morozumi.

### **35 U.S.C. § 103**

Claims 4-5, 8-9, 11-14, 17, 19-23 and 26-27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Morozumi in view of previously cited U.S. 6,317,840 to Dean and/or in view of U.S. 6,496,823 to Blank in further view of U.S. 2003/0012143 to Chen, and/or in view of U.S. 5,842,029 to Conary. (each rejection relies on Morozumi as the primary reference) Applicant respectfully traverses these rejections for the following reasons.

*Prima facie* obviousness is only established when three basic criteria are met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the

AMENDMENT under 37 C.F.R. § 1.111  
U.S. Appln. No. 10/017,047

prior art reference (or references when combined) must teach or suggest all the claim limitations.  
*In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991) (MPEP 2144).

In the case at hand, the Office Action improperly relies on Morozumi to teach the first and second monitors which are communicatively coupled or polling the processor to determine respective loads as discussed above. Since Dean, Blank, Chen and Conary also fail to teach or suggest these limitations, even assuming it would be proper to combine the references as suggested in the Office Action (*arguendo*), the resulting combinations still fail to teach or suggest all the features of Applicant's independent claims 1, 15 and 24. Accordingly, neither Applicant's independent claims nor the claims which depend there from can be rendered obvious by the cited prior art. (MPEP 2143).

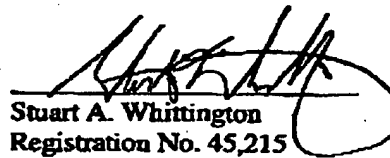
For at least the foregoing reasons, Applicant respectfully requests the Examiner to reconsider and withdraw all §103 rejections of record.

AMENDMENT under 37 C.F.R. § 1.111  
U.S. Appl. No. 10/017,047

**CONCLUSION.**

In view of the foregoing, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below. Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this case, and any required fee or deficiency thereof, except for the Issue Fee, is to be charged to **Deposit Account # 50-0221.**

Respectfully submitted,

  
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